

- (ii) Has a seating capacity of at least 20 adults (not including the driver), and
- (iii) Is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)(4)) to furnish such transportation.

A company that operates qualified local buses is eligible for a full refund or credit only with respect to fuel used while such buses are operating as qualified local buses. For example, a company that operates its buses along subsidized intracity routes and also on intercity or unsubsidized intracity routes may obtain a full refund or credit only with respect to fuel used while operating the subsidized intracity routes.

(b) *Meaning of terms*—(1) *Contract with a State or local government*. A bus is under contract with a State or local government only if the contract imposes a bona fide obligation on the operator of the bus to furnish the transportation to which the contract relates.

(2) *More than a nominal subsidy*. A subsidy is more than nominal if the subsidy is reasonably expected to exceed an amount equal to 3 cents multiplied by the number of gallons of fuel used while operating on subsidized routes.

(3) *Intracity passenger land transportation*. The term “intracity passenger land transportation” means the land transportation of passengers to and from points located within the same metropolitan area. The term includes transportation along routes that cross State, city or county boundaries provided such routes remain within the metropolitan area.

[T.D. 8027, 50 FR 21252, May 23, 1985]

§ 48.6427-8 Diesel fuel and kerosene; claims by ultimate purchasers.

(a) *Overview*. This section provides rules under which ultimate purchasers of taxed diesel fuel and kerosene may claim the income tax credits or payments allowed by section 6427(1). Generally, these claims relate to diesel fuel and kerosene used in nontaxable uses. Claims relating to diesel fuel and kerosene sold for use on a farm for farming purposes and by a State are made by registered ultimate vendors

under § 48.6427-9; claims relating to kerosene sold from a blocked pump are made by registered ultimate vendors (blocked pump) under § 48.6427-10; and claims relating to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes are made by registered ultimate vendors (blending) under § 48.6427-11.

(b) *Conditions to allowance of credit or payment*—(1) *In general*. Except as provided in section 6427(1)(5), a claim for an income tax credit or payment with respect to diesel fuel or kerosene is allowed under section 6427(1) only if—

(i) Tax was imposed by section 4081 on the diesel fuel or kerosene to which the claim relates;

(ii) The claimant produced or bought the diesel fuel or kerosene and did not sell it in the United States;

(iii) The claimant has filed a timely claim for a credit or payment that contains the information required under paragraph (d) of this section;

(iv) The diesel fuel or kerosene was not bought under a certificate described in § 48.6427-9(e)(2) (relating to Certificate of Farming Use or State Use);

(v) The diesel fuel or kerosene was not used on a farm for farming purposes (as defined in § 48.6420-4) or by a State;

(vi) With respect to kerosene, the kerosene was not sold from a blocked pump or sold for blending with diesel fuel under the conditions described in § 48.6427-11; and

(vii) The diesel fuel or kerosene was either—

(A) Used in a use described in § 48.4082-4(c)(3) through (c)(8);

(B) Exported;

(C) Used other than as a fuel in a propulsion engine of a diesel-powered highway vehicle; or

(D) Used as a fuel in the propulsion engine of a diesel-powered bus if the bus was engaged in a use described in section 6427(b)(1) (after the application of section 6427(b)(3)).

(2) *Examples*. The following examples illustrate this paragraph (b).

Example 1. (i) In September 2000, F bought 250 gallons of undyed diesel fuel. In October 2000, F used 200 gallons of the fuel in a farm tractor. This use qualifies as use on a farm

for farming purposes (as defined in § 48.6420-4). The farm tractor is not a diesel-powered highway vehicle (as defined in § 48.4081-1(b)). F used the remaining 50 gallons to heat F's residence. F filed a complete and timely claim for a credit relating to the 250 gallons.

(ii) A credit or payment is not allowable to F with respect to the 200 gallons of diesel fuel used in the farm tractor. Even though this fuel was used other than as a fuel in a propulsion engine of a diesel-powered highway vehicle (thus meeting the condition in paragraph (b)(1)(vii)(C) of this section), the condition in paragraph (b)(1)(v) of this section is not satisfied because the fuel was used on a farm for farming purposes.

(iii) A credit is allowable to F with respect to the 50 gallons F used for heating purposes because the conditions in paragraph (b)(1) of this section have been met. F used this fuel other than as a fuel in a propulsion engine of a diesel-powered highway vehicle and the use of the fuel for residential heating is not use on a farm for farming purposes.

Example 2. (i) In September 2000, W, a wholesale distributor, sold 3,500 gallons of diesel fuel on which tax has been imposed to C, a construction company located in the United States. W's selling price to C did not include an amount equal to the federal excise tax on the fuel. C used the fuel other than as a fuel in a propulsion engine of a diesel-powered highway vehicle. Both W and C file a complete and timely claim for a credit relating to the fuel.

(ii) Because W resold the fuel in the United States, the condition of paragraph (b)(1)(ii) of this section is not met. Thus, W is not allowed a credit or payment with respect to the fuel.

(iii) C is eligible for a credit or payment with respect to the fuel because the conditions to allowance in paragraph (b)(1) of this section have been met. The conditions to allowance do not include a requirement that C buy the fuel at a price that includes the amount of the tax.

(c) *Form of claim.* Each claim for an income tax credit under this section must be made on Form 4136 (or on such other form as the Commissioner may designate) in accordance with the instructions for that form. Each claim for a payment under this section must be made on Form 8849 (or on such other form as the Commissioner may designate) in accordance with the instructions for that form.

(d) *Content of claim.* Each claim for a credit or payment under this section must contain the following information with respect to all the diesel fuel or kerosene covered by the claim:

(1) The total number of gallons.

(2) A statement by the claimant that—

(i) The diesel fuel or kerosene did not contain visible evidence of dye; or

(ii) In the case of diesel fuel or kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that fuel.

(3) The use made of the diesel fuel or kerosene covered by the claim described by reference to specific categories listed in paragraph (b)(1)(vii) of this section (such as use in a qualified local bus or the exclusive use of a non-profit educational organization).

(4) If the diesel fuel or kerosene covered by the claim was exported, a declaration that the claimant has proof of exportation (as described in § 48.4221-3(d)(1)).

(5) A declaration that the claimant has in its possession the name and address of the person(s) that sold the diesel fuel or kerosene to the claimant and the date(s) of the purchase(s).

(e) *Time and place for filing claim.* For rules relating to the time for filing a claim under section 6427, see section 6427(i). A claim under this section is not filed unless it contains all the information required by paragraph (d) of this section and is filed at the place required by the form.

(f) *Effective date.* This section is applicable with respect to diesel fuel after December 31, 1993, except for paragraph (b)(1)(iv) of this section, which is applicable to diesel fuel bought by ultimate purchasers after June 30, 1994. This section is applicable with respect to kerosene after June 30, 1998.

[T.D. 8659, 61 FR 10464, Mar. 14, 1996, as amended by T.D. 8879, 65 FR 17161, Mar. 31, 2000; T.D. 9051, 68 FR 15942, Apr. 2, 2003]

§ 48.6427-9 Diesel fuel and kerosene; claims by registered ultimate vendors (farming and State use).

(a) *Overview.* This section provides rules under which certain registered ultimate vendors of taxed diesel fuel and kerosene may claim the income tax credits or payments allowed by section 6427(l)(5)(A). These claims relate to diesel fuel and kerosene sold for use on a farm for farming purposes and by a State. Claims relating to diesel fuel and kerosene used for other nontaxable